

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: AUGUST 2, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-12666 - APPLICANT: CINGULAR WIRELESS - OWNER: SOUTHWESTCO WIRELESS**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE AUGUST 2, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (6-0-1 vote) and staff recommend DENIAL. If approved, subject to conditions:

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-12667) shall be required.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

The applicant is requesting a Variance to allow a residential adjacency setback of 87.5 feet where 180 feet is required for an existing 60-foot tall wireless communication facility, non-stealth on 0.50 acre at 840 North Decatur Boulevard.

**EXECUTIVE SUMMARY**

Residential adjacency standards were not applicable to the subject site at the time of approval in 1996. With the current proposal, the tower must comply with current standards. As such, this request for a setback that represents greater than 50% deviation from standards related to residential adjacency is not supported as it violates the intent of the existing standards. The existing tower is 60 feet and the proposal would add another full array antenna at 50 feet. The tower is located within a commercial center, immediately adjacent to residential development

**BACKGROUND INFORMATION**

***A) Related Actions***

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|----------|--|
| 08/28/68 | The City Council approved a Rezoning (Z-0025-68) to C-1 (Limited Commercial) on the subject site. The Planning Commission recommended denial.  |
| 06/05/74 | The City Council approved a Rezoning (Z-0019-74) to R-PD8 (Residential Planned Development – 8 units per acre) on property to the east of the subject site. The Planning Commission and staff recommended approval.  |
| 11/30/95 | The Planning Commission approved a Plot Plan Review [Z-0025-68(3)] for a proposed 70-foot tall Wireless Communications Facility on the subject site adjacent to the King's Ranch Market. This approval was prior to the adoption of Title 19A, which contained Residential Adjacency Standards affecting the proposal. Staff recommended approval. |
| 12/23/96 | A building permit (#96025382) was issued for a wireless communications monopole at 840 North Decatur Boulevard. A special inspection was completed 01/09/97.   |
| 03/24/97 | The City Council adopted Ordinance No. 4073, amending the Las Vegas Zoning Code as Title 19A. Residential Adjacency Standards were established therein.  |

- 07/14/97 The City Council approved a Rezoning (Z-0045-97) to PD (Planned Development) on the subject site. The City Council rescinded this action on 01/12/98, and the zoning designation of the property reverted to C-1 (Limited Commercial). Staff recommended approval of both the Rezoning to PD and the rescission of the earlier approval.
- 03/22/99 The City Council accepted the Withdrawal Without Prejudice of the appeal of the Planning Commission's denial of a Special Use Permit (U-0001-99) for a proposed 60-foot tall Wireless Communications Tower south of the existing convenience store adjacent to the subject site. Staff recommended denial.
- 03/16/05 The City Council approved Ordinance No. 5754, which eliminated Redevelopment Area status as a determinant of Residential Adjacency Standards and certain setback requirements. As a result, the subject site is not exempt from application of Residential Adjacency Standards.
- 01/04/06 The City Council denied a request for a Special Use Permit (SUP-9785) for a proposed 20-foot extension to the existing 60-foot tall Wireless Communication Facility, Non-Stealth Design on the subject site and a Variance (VAR-9789) to allow an 86-foot setback from residential property where residential adjacency standards require a 240 foot minimum setback for a proposed 20-foot extension to an existing 60 foot tall wireless communication facility, non-stealth design. The Planning Commission and Staff recommended denial of these requests.
- 05/11/06 The Planning Commission voted (6-0-1) to recommend DENIAL (PC Agenda Item #33/stf).

***B) Pre-Application Meeting***

- 03/21/06 A pre-application meeting with the applicant was held and the following items were discussed:
- Staff noted that the current request is a lesser one than previous requests. As such, it can move forward within one year of previous requests.
  - Staff review determined that the facility is incompatible with surrounding uses.
  - Staff informed the applicant that he or she will be required to paint the new antennas to match the existing one and that an eight-foot block wall would be required for screening purposes.

***C) Neighborhood Meetings***

A neighborhood meeting is not required as part of this application request, nor was one held.

## DETAILS OF APPLICATION REQUEST

**A) *Site Area***

Gross Acres: .50

**B) *Existing Land Use***

Subject Property: Service Commercial  
North: Non-Profit Organization (Municipal Golf Course)  
South: Service Commercial  
East: Townhouses  
West: Service Commercial

**C) *Planned Land Use***

Subject Property: SC (Service Commercial)  
North: PF (Public Facilities)  
South: SC (Service Commercial)  
East: ML (Medium-Low Density Residential)  
West: SC (Service Commercial)

**D) *Existing Zoning***

Subject Property: C-1 (Limited Commercial)  
North: C-V (Civic)  
South: C-1 (Limited Commercial)  
East: R-PD8 (Residential Planned Development – 8 Units per Acre)  
West: C-1 (Limited Commercial)

**E) *General Plan Compliance***

The subject property is located in the Southeast Sector of the General Plan. Within that Sector, it has a land use designation of SC (Service Commercial). This designation is compatible with the underlying C-1 (Limited Commercial) zoning.

<b>SPECIAL DISTRICTS/ZONES</b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>		<b>X</b>
<b>Special Overlay District</b>	<b>X</b>	
Airport Overlay District	<b>X</b>	
<b>Trails</b>		<b>X</b>
<b>Rural Preservation Neighborhood</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

**Airport Overlay District**

The subject site is located within an Airport Overlay District that restricts the height of buildings to 105 feet. The existing wireless communication tower, at 60 feet, is below this maximum height.

## ANALYSIS

### A) *Zoning Code Compliance*

#### A1) Development Standards

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

Standards	Required	Existing	Compliance
Min. Lot Width	100 Feet	116 Feet	Y
Min. Setbacks (tower)			
• Front	20 Feet	88 Feet	Y
• Side	180 Feet	87.5 Feet	Y
• Corner	15 Feet	N/A	N/A
• Rear	20 Feet	93 Feet	Y
Max. Building Height	29 Feet (based on Residential Adjacency)	60 Feet	N
Mech. Equipment	Screened	Screened by 6.9-foot block wall	Y, although original approval of tower required an 8-foot wall

The subject proposal does not meet the standard for side setback (determined based on the height of the structure). This setback is determined by current residential adjacency standards that require that a proximity slope with a ratio of 3:1 be drawn from properties zoned for residential uses. This requires a setback of 180 for the existing 60-foot tower. As only 87.5 feet are provided, a Variance is needed from this standard.

#### A2) Residential Adjacency Standards

Pursuant to Title 19.08, the following Residential Adjacency Standards apply to the subject proposal:

- Proximity slope. The proposal needs Variance from the 3:1 proximity slope requirement. The applicant is proposing 87.5 feet where 180 feet are required due to the height of the tower. This represents a deviation of approximately 51%.
- Building setback. The proposed building must be set back at least as far as the protected residential property to the east. As the adjacent setback is approximately 40 feet and the proposed setback for the wireless

communication tower is 87.5 feet, the subject proposal complies with this requirement.

***B) General Analysis and Discussion***

The subject proposal will add only an 11.5 by 20-foot shelter to the existing footprint of the site as the intent is to co-locate additional antennas on an existing wireless communication tower. However, the existing tower is located closer to residential property than current standards allow. This residential property is located adjacent to the subject site and consists of multi-family units at a density of eight units per acre. As such, the expansion of the use via the addition of antennas is inappropriate for the area.

**FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by locating the tower too close to surrounding residential property. Alternative locations would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 12

**ASSEMBLY DISTRICT** 34

**SENATE DISTRICT** 4

**NOTICES MAILED** 231 by City Clerk

**APPROVALS** 0

**PROTESTS** 2